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ORIGIN NEA-10

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DODE-00 FPC-01 H-02 INT-05 L-03 NSAE-00 NSC-05 OMB-01

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ACDA-07 AGR-05 CEQ-01 CG-00 DOTE-00 EPA-01 FMC-01

IO-13 JUSE-00 NSF-01 PA-01 PRS-01 SAL-01 /143 R

DRAFTED BY NEA/AFN:MCKING/INR/DFR/RGE:RDHODGSON:PAW

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-/OES:DCOLSON

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FM SECSTATE WASHDC

TO AMEMBASSY TUNIS

AMEMBASSY TRIPOLI

INFO AMEMBASSY PARIS

AMEMBASSY VALLETTA

C O N F I D E N T I A L STATE 178550

TUNIS FOR AMBASSADOR, TRIPOLI FOR CHARGE

E.O. 11652: GDS

TAGS: ENRG, PFOR, PBOR, PLOS, TS, LY, MT, FR, US

SUBJECT: POSSIBLE INVOLVEMENT OF US FIRM IN DISPUTED
CONTINENTAL SHELF AREA

REF: A. TUNIS 4510, B. STATE 158101 AND PREVIOUS
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1. BUTTES RESOURCES LTD. REQUESTED LEGAL OPINION OF LAW FIRM OF NORTHCUTT ELY ON VALIDITY OF TUNISIAN CLAIMS TO DISPUTED AREA ON CONTINENTAL SHELF BETWEEN LIBYA AND TUNISIA. BEFORE ACCEPTING COMMISSION, ELY REQUESTED APPOINTMENT WITH DEPARTMENT'S GEOGRAPHER TO DETERMINE POTENTIAL BASES FOR CLAIMS. MESSERS. BASSINGER AND WALSH OF BUTTES, AND NORTHCUTT ELY AND ROBERT PIETROWSKI OF LAW FIRM NORTHCUTT ELY CALLED ON GEOGRAPHER ON JUNE 30. PRESENT WERE ROBERT HODGSON AND ROBERT SMITH OF RGE AND MARGUERITE KING (NEA/AFN). THE CONVERSATIONS CENTERED ON RELEVANCY OF DELIMITATION PRINCIPLES AND THE POTENTIAL FOR FUTURE ARBITRATION. PIETROWSKI AND HODGSON HAD HELD PRELIMINARY CONVERSATIONS ON JUNE 29.

2. WITHOUT TAKING A POSITION ON THE MERITS OF ANY PRINCIPLE, THE GEOGRAPHER NOTED EXISTENCE OF A TUNISIAN CLAIM FOR AN HISTORIC MARITIME BOUNDARY EXTENDING 45 DEGREES FROM TERMINATION OF LAND BOUNDARY. CLAIM REPUTEDLY BASED UPON

19TH CENTURY TURKISH ACTION CONCERNING FISHERIES TO WHICH THIRD PARTIES HAD AGREED. DEPARTMENT NOTED THAT NO PRIMARY SOURCE EVIDENCE UNCOVERED AS TO EXISTENCE OF TURKISH DECREE OR INTERNATIONAL AGREEMENT. COPIES OF RECENT TUNISIAN LAWS REITERATING THE LINE WERE FURNISHED TO ELY. THE GEOGRAPHER NOTED THAT 45 DEGREE LINE CLEARLY PLACED POTENTIAL DRILLING SITE IN THE PRIMARY STRUCTURE UNDER TUNISIAN JURISDICTION.

3. GEOGRAPHER NOTED THAT FRENCH DURING COLONIAL PERIOD CLAIMED GULF OF GABES AS HISTORIC BAY. ITS CLOSING LINE COULD BE UTILIZED AS BASEPOINTS FOR DETERMINATION OF EQUIDISTANT BOUNDARY. CLOSING LINE, HOWEVER, WOULD HAVE TO EXTEND FROM EASTERN CAPE NEAR ZARZIS (APPROXIMATELY 30 DEGREES AND 30MI4S.NORTH) TO THE EASTERN EXTREMITY OF KERKENAH ISLANDS TO BE EFFECTIVE. SECONDARY SOURCES INDICATE THAT HISTORIC BAY LINE WAS FARTHER TO WEST EXTENDING FROM DJERBA TO KERKENAH. ZARZIS EQUIDISTANT LINE WOULD PLACE WELL SITE ON TUNISIAN SHELF.

4. HODGSON ALSO INDICATED THAT PREVIOUS EQUIDISTANT LINES
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DRAWN ON CHARTS NOT PRECISE DUE TO DISTORTIONS OF MAP PROJECTIONS. OFFICE CURRENTLY DEVELOPING PRECISE EQUIDISTANT LINES BY COMPUTER. (FYI: PROJECT IS DELAYED DUE TO END OF FISCAL YEAR USE OF COMPUTERS AND MODIFICATIONS BEING MADE TO SYSTEM. END FYI). ELY GAVE HODGSON THE IMPRESSION THAT HE WOULD RENDER LEGAL OPINION TO BUTTES BUT GAVE NO INFORMATION ON ATTITUDE. HOWEVER, IN EARLIER TALKS PIETROWSKI HAD NOTED THAT FIRM NOT

ANXIOUS TO RENDER JUDGMENT WHICH WOULD REDUCE "FIRM'S CREDIBILITY."

5. BASSINGER (WHO HAD JUST RETURNED FROM TUNISIA) SAID THAT GOT HAD LODGED A COMPLAINT WITH AQUITAINE FOR ACCEPTING CONCESSIONS FROM BOTH TUNISIA AND LIBYA ALTHOUGH AREAS COVERED OVERLAPPED. HE GOT THE IMPRESSION THAT GOT WOULD BEGIN CLOSING OUT AQUITAINE'S TUNISIAN CONCESSION AND THAT AQUITAINE WOULD CHOOSE TO DEVELOP THE LIBYAN SIDE. AQUITAINE SUBSEQUENTLY WITHDREW IT'S BUSINESS OFFER TO BUTTES (REF A).

6. KING BRIEFED THE COMPANY REPRESENTATIVES ON THE CURRENT STATE OF TUNISIAN-LIBYAN AND U.S.-LIBYAN RELATIONS. IN RESPONSE, COMPANY REPS WANTED TO KNOW LIKELY LARG RESPONSE TO DISCOVERY OF BUTTES' OR TUNISIAN DRILLING RIG IN AREA CLAIMED BY LIBYA. SHE REPLIED THAT IT WOULD BE RISKY; IMPRISONMENT OR CASUALTIES AMONG CREW COULD NOT BE DISCOUNTED. (WE WOULD APPRECIATE EMBASSY TRIPOLI'S THOUGHTS ON NATURE AND EXTENT OF RISK.) FURTHER, WE

REITERATED THAT QADHAFI REPORTEDLY IS PHILOSOPHICALLY AGAINST DRAWING A DIVIDING LINE. THE GEOGRAPHER POINTED OUT THAT EVEN IN CASE OF "CHRISTIAN" MALTA, MALTA-LIBYA COMPRIS PROVIDED ONLY FOR AN ADVISORY OPINION ON PRINCIPLES OF DELIMITATION OF CONTINENTAL SHELF BETWEEN OPPOSITE STATES. (TEXT OF VALLETTA COMMUNIQUE WAS GIVEN TO LAWYERS.)

7. BASSINGER SAID COMPANY WAS STILL LOOKING FOR ALTERNATIVE WAYS TO HELP GOT. TUNISIANS ARE ANXIOUS PROCEED WITH DRILLING IN ORDER TO STRENGTHEN THEIR CLAIM TO AREA WHERE GREATEST OIL RESERVES ARE BELIEVED TO EXIST. (BASSINGER CONFIDENTIAL

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CLAIMS THAT SIZE AND LOCATION OF LIBYAN CONCESSIONS TO AQUITAINE ARE BASED NOT ON LARG ESTIMATE OF ITS NATIONAL CLAIM BUT AQUITAINE'S REQUEST TO LARG BASED ON THE COMPANY'S ESTIMATE OF WHERE THE BEST RESOURCES LAY.) GOT TOLD COMPANY REPS THAT LARG HAS PROTESTED ONLY IN ABOUT ONE-HALF OF THE CASES OF TUNISIAN DRILLING OPERATIONS IN DISPUTED AREA. TUNISIANS TOLD BASSINGER THAT PRINCIPAL OBJECT WAS TO GET LIBYA TO TAKE CASE TO COURT OR ARBITRATION.

8. IN RESPONSE TO DEPTOFF QUERY, BASSINGER SAID COMPANY'S ALTERNATIVES ARE STILL LARGELY THOSE DISCUSSED WITH AMBASSADOR MULCAHY (REF A). COMPANY WOULD OBVIOUSLY PREFER GOT PURCHASE DRILL SHIP AND HAVE TUNISIAN OR OTHER NON-AMERICAN CREW WHILE BUTTES' EMPLOYEES PROVIDED

GUIDANCE FROM ON-SHORE HEADQUARTERS. DEPTOFF REPEATED
USG POLICY TOWARD US BUSINESSES INVOLVED IN OPERATIONS
IN DISPUTED AREAS. COMPANY WILL RETURN WHEN GEOGRAPHER'S
OFFICE HAS AVAILABLE THE COMPUTER-DEFINED EQUIDISTANT
LINES. KISSINGER

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